

NEWS RELEASE - March 3, 2005
BAKERSFIELD CALIFORNIAN
COUNTY SUES KERN DAIRY OVER WASTEWATER

Permit violations led to unfair business edge, Kern prosecutor says

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A Buttonwillow dairy cited last fall for intentionally dumping wastewater in a nature reserve is being sued by the county, which says breaking environmental laws led to an unfair business advantage.

It's the first such case against a dairy in Kern County, said Deputy District Attorney John Mitchell.

Mitchell said violations at Goyenette Dairy -- home to nearly 2,000 more cows than its permit allows -- include dumping dark brown wastewater on public land and letting mosquitoes overrun the resulting 16-acre, knee-high lagoon, resulting in an unfair edge over its competitors.

"No one wants to keep business out of Kern County," Mitchell said.

"(But) if they're going to be here, doggone it, you've got to follow the rules."

He said the state's Unfair Competition Laws allow the county to go after businesses that don't live up to their local and state permits.

The county is asking Albert Goyenette to pay a minimum fine of \$400,000, plus legal fees and the cost of cleaning up Buttonwillow Ecological Reserve.

Goyenette could not be reached for comment, but his attorney said the dairy abides by all of its permits.

"I'm confident they are in compliance ... and have been for a considerable period of time," said Bakersfield attorney David Cooper.

He said Goyenette's county permit to house 5,520 cows is flexible and based on estimates. Inspectors found 7,400 cows at the dairy in 2001, according to the county's lawsuit filed this week.

Mitchell said the suit was referred to him by the Central Valley Regional Water Quality Control Board, whose staff couldn't comment on the case.

Dairies submit wastewater management plans to the water board, telling officials how many cows they have and whether they have enough cropland to absorb their manure as fertilizer. "We're assuming it's going to be in the dairy's best interest to do it right," said David Sholes, head of dairy compliance for the water board, speaking generally.

Even when applied to crops sparingly, manure as fertilizer is a salty mixture that could threaten groundwater. (This issue was explored in-depth on the front page of Sunday's Californian).

Seven water board employees regulate 1,700 dairies throughout the Central Valley. That's not enough to survey each dairy on a routine basis. Goyenette's alleged violations were discovered when a state Department of Fish and Game employee caught sight of the 16-acre lagoon at the Buttonwillow Ecological Reserve.

Mitchell said local governments should keep the state's short staff in mind. "I think there's a false level of assurance in the public ... that someone's following up," he said. "If that's not the case, the public needs to know about it."

Dairy oversight is a ripe issue in Kern, which just began an 18-month environmental study of how 22 new dairies with 194,000 cows from Chino would affect local air, water and other resources.

In 2000, Goyenette was fined \$9,000 by the federal Environmental Protection Agency for routing wastewater off of a dairy he owned in Chino through a man-made ditch.

This time he could be fined as much as \$2,500 per violation. It's up to a judge to decide what constitutes a violation